

PLANNING COMMISSION

ACTION MINUTES

TUESDAY, OCTOBER 4, 2005

Chairs Parsons called the meeting to order at 7:00 p.m. at the Belmont City Hall Council Chambers

1. ROLL CALL:

Present Commissioners: Parsons, Dickenson, Horton, Wozniak, Long, Gibson, Frautschi

Absent Commissioners: None

Present, Staff: Interim Community Development Director de Melo
(ICDD), Jennifer Walker (AP), City Attorney Zafferano (CA), Recording Secretary Flores (RS)

2. AGENDA AMENDMENTS:

ICDD de Melo suggested that Items 7A, 7B and 6A be heard at the conclusion of the Consent Calendar. The Commission concurred with this request.

3. COMMUNITY FORUM (Public Comments):

4. CONSENT CALENDAR:

Chair Parsons suggested that since the Commission had not had an opportunity to read the Minutes of August 2, 2005, the vote be delayed on that item until the next meeting.

RS Flores reported that there were three requests to speak regarding item 4B of the Consent Calendar (905 South Road). Chair Parsons agreed to open that item for discussion.

4A. Minutes of July 19, 2005 and August 2, 2003

MOTION: By C Frautschi, seconded by C Long, to accept the Minutes of July 19, 2005 as presented to them.

Ayes: Frautschi, Long, Gibson, Horton, Wozniak, Dickenson, Parsons

Noes: None

Motion passed 7/0

MOTION: By C Frautschi, seconded by C Long, to continue the Minutes of August 2, 2005 to the next meeting. Motion passed.

4B. Resolution and Conditions of Approval for a New Single Family Dwelling at 905 South Road.

Carlos summarized the staff report, providing a revised project for the proposed single family design review at 905 South Road. The Commission was pleased with the project, and at the conclusion of the matter on August 16th, the Commission directed staff to prepare a revised Resolution of Approval as well as Conditions of Approval for this project. Staff attached the Draft Resolution and Conditions of Approval, as well as an Arborists Report updated and prepared for the site in April 2005, and a summary letter prepared by Cotton and Shires Assoc. The Commission had given staff certain conditions to include as part of those draft conditions for the project and Commissioner Frautschi provided additional comments regarding Condition A-9. ICDD de Melo itemized the following proposed changes:

- Exhibit A, page 2 of the Conditions. The proposed change to Condition 6A would be, instead of the wet weather grading restrictions, it will now read, "Site grading shall not be permitted from November 15 through April 15."
- Condition 9, page 8, the last part of that condition will now read "BMPs to be used to prevent soil dirt and debris from entering the storm drain system and into or on the downhill set back area that is located above the Belmont Vista properties."
- Public Works Condition C-3, Page 9, "import" the second sentence from the Planning Department condition of approval in terms of the hours of construction. On August 16th, the applicant agreed to no construction work on Saturdays. To clarify, no grading or construction activities will take place on Saturdays; only Mondays through Fridays, 8:00 a.m. to 5:00 p.m.
- Responding to C Frautschi, ICDD de Melo stated that he will ask Cotton and Shires for the definition of the term "freeboard."
- Staff has recommended that the landscape plan have fifteen 24" box trees. The arborists recommended that a bond be in place to cover the aggregate cost of planting of fifteen trees at \$350 per tree, which totals about \$5,200. Should only twelve trees be planted because the site cannot support the fifteen, staff would still want to keep the bond around the \$5,000 range irrespective of how many trees are planted.
- C. Frautschi asked about the issue of the pathways for the project adjacent to the front of the property. Staff report resolution identifies that there is a public benefit of a walkway proposed for this encroachment. Applicant has agreed to a pathway area that delineates the distinction between the applicant's property and the public right-of-way area. Whether an actual sidewalk will be constructed will be addressed with the Public Works Department.

C Horton suggested that the condition regarding no work on Saturdays be clarified to include only exterior work. ICDD de Melo agreed to make that clarification.

Mary Lou South introduced herself as one of the General Partners of Paradigm Health Care, Owner of Belmont Convalescent Hospital in the Belmont Vista Senior Community. She feels the resolutions or conditions do not meet the standard of 14.5.1 E of the zoning ordinance for the health and safety of the frail, elderly residents of Belmont Convalescent Hospital due to the instability of the soil and the steepness of the slope. She is asked that two conditions be included in this project:

- A third geological study of the soil to validate or dispute the May 16, 2005 Report. She is concerned about the soil and the hillside and asked for a constructability document showing how they can safely construct a house with a 42° slope with no access except from South Road.

- She felt that when they changed the design and tried to solve the problem of the public view from South Road by moving the house downhill closer to Belmont Convalescent, they threatened the Belmont Vista residents' right to privacy and cut down on the light by placing the fence closer to the property line. She requested that a condition be added that the fence be moved back at least 10 feet toward the new structure and Belmont Vista will maintain their 10 feet of property on Belmont Vista's side of the fence with landscaping.
- She requested that no Saturday work be allowed, whether it is inside or outside.

ICDD de Melo responded that the wording on page 8 of the Conditions of Approval that describes preparation of an erosion and sedimentation control plan is being discussed so that Belmont Vista property would be protected. He added that the Commission had determined that only the less noisy aspects of interior finish work would be allowed on Saturdays.

Steve Gonzales introduced himself as living down the hill from 905 South Road. He was concerned about the 9 Coastal Redwoods on his property line that will be planted in the vicinity. He explained that he had found bedrock 25 feet away from his patio and was concerned about safety when the trees grow tall, and also that they will take away the view of the skyline. He was also concerned about any type of construction taking place on Saturdays due to traffic, parking, and other activity on South Road, and he was also concerned about how they are actually going to build the structure and access the property, and hoped they will be respectful of the neighbors in the process.

Kim Gonzales introduced herself as a resident of 925 South Road. Her concern is the landscape plan for the trees that will be planted in a triangle area that joins her property. She felt that the new trees they will get tall and may fall, especially with the soil in that area. She also made note that the properties are slanted and their view is straight forward where those trees will be planted, and will block their view when those trees grow larger. She asked that their view be taken into consideration and that the trees not be required for mitigation purposes alone, as this view adds about \$75,000 worth of value to their home. She also does not know how they are going to manage doing this job on South Road.

C Long asked about the South Road stability. ICDD de Melo explained that there are specific conditions of approval which were imported from a letter from Cotton and Shires, into Condition 6, page 2 of the staff report, as well as Conditions 6D, 6E, and 6F, are specific conditions for this project that Cotton and Shires has levied relative to the construction-related impacts as it relates to South Road. He added that the project is subject to the Public Works Department and City Geologist's review and approval at the Building Permit stage.

C Gibson asked about the code Ms. South mentioned, 14.5.1 E. ICDD de Melo stated that it is the Variance Code, Public Health and Safety variance section, which starts on page 2 of the Resolution, and that it will be reviewed again at the Building Permit stage. Staff believes that at this point the project has been adequately reviewed from a geotechnical standpoint and a public health, safety and welfare standpoint.

C Wozniak asked about the commitment of building the house, i.e., if they started to build the house then could not finish it due to money or soil issues, is there a completion bond. ICDD Carlos replied that there are bonds for landscaping and retaining wall issues that require the structures in the public right-of-way, however, all new projects do have an opportunity to not be completed due to lack of funds. If the Commission has its reservations about this specific project, a condition can be stated, however, it is not typical.

C Gibson mentioned that he did not want to single this project out by imposing a completion bond, but that they should pay attention to certain questions that have been brought to their attention. He referred to the City's provision for allowing people to donate to the City's tree planting fund. They are trying to jam too many trees on to this lot and if some of them are deleterious to the neighbors, he would like some flexibility. ICDD de Melo replied that typically staff reviews the final landscape plan but in this case we've actually requested that the final landscape plan come back to the Commission so that can give staff the opportunity to work with the applicant on the amount of tree plantings. There are some protected trees that are of value to the site that are coming out and we would like to see some plantings go in, but the Commission can review that later.

C Gibson added that he believes they should leave Saturday work out entirely since the applicant agreed not to work on Saturday.

C Frautschi addressed some questions brought up by the audience:

- A third geologist report is not necessary.
- Regarding the constructability document, he stated to Ms. South that the Commission does not handle that document; that will be the next phase. It is up to the applicant to build it based on the rules.

- Regarding the Redwood trees, explained to the Mr. and Mrs. Gonzales that the reason for these trees was that they perceived that there was an issue next door with the bulk of the building from their direction, and that is why there are so many trees being placed on this lot. Once the final landscape plan is brought back, they will then get a better sense of the surroundings.
- Staff confirmed that privacy issues do not come into play with regard to the planting of trees
- He agreed that there should be no construction on Saturdays.

Regarding the fence request, C Horton felt it is unreasonable to ask that the owner not be able to utilize their entire property; to have it set back 10 feet is not a reasonable request.

C Long suggested that the applicant work through the tree planting issue with the neighbors so that there is adequate screening and also adequate planting of some native species that works to everyone's advantage. Staff confirmed that the path or sidewalk will be part of the final landscape plan.

MOTION: By C. Frautschi, seconded by C Long, to adopt the Resolution approving a Variance and Single-Family Design Review at 905 South Road, with the following language changes:

- **Planning Division Condition I A-2, Construction Noise, the language as now that there that there will be no construction on Saturdays. That additional language will also carry over to Public Works relative to grading.**
- **Condition 6A of page 2 of Exhibit A, changing October 15 to November 15.**
- **Condition 7 focuses on the final landscape plan, which will return to the Commission, and wording will also include a final sidewalk construction plan.**
- **Condition 9 on page 8, add the wording at the end of the first sentence "and into on the downhill set back area above the Belmont Vista property...."**
- **The final landscape plan will come back to the Commission for final approval.**

Ayes: Frautschi, Long, Gibson, Wozniak, Horton, Dickenson, Parsons

Noes: None

Motion passed 7/0

C Parsons noted that this item may be appealed to City Council within 10 calendar days.

6. NEW BUSINESS:

6A Determination of Conformance with General Plan – Vacation of Public Right-of-Way on Island Parkway (land adjacent to APN 040-36-480)

Kathleen Phalen, City Engineer (CE) with the Public Works Department, summarized the staff report. Staff is requesting a finding that disposal of a vacation of a remnant property is consistent with the General Plan. She explained that it is a triangular piece of property that formerly underlay Shoreway when it was realigned with the new interchange project. The City would like to consider selling that parcel, but it needs to determine that this will be consistent with the General Plan. Their department has completed a review of the General Plan and finds that vacation of the parcel is consistent with goals of the General Plan.

C Gibson asked if the parcel will be parking for the Mercedes dealership. CE Phalen responded that she believes that is the intent of the negotiations that have been on-going with the Lucas property owners and confirmed that it will not be under the Island Park Bridge roadway.

C Frautschi inquired as to why the City would not negotiate a price then come to the Commission to make the bargaining position better. She stated she could not answer as she was not part of the negotiations. CA Zafferano stated the negotiations have been the subject of closed session discussions with the Council and added that there has been an agreement in principle on the price subject to the Commission's decision tonight.

C Horton did not believe the goals and policies listed are relevant. She did not see how it applied to General Plan Goal #10 and that General Plan Policy 4G applies to new development only. She felt that 2-25 and 2-44 were applicable to the project.

Chair Parsons felt that the goals that have been cited in the project analysis were the ones that applied when the right-of-way was needed, and since they are no longer applicable the right-of-way can be vacated.

VC Dickenson asked if the existing large parking lot for the dealership was acquired from the City. CE Phalen believed that that property is being leased from the City. VC Dickenson stated that he felt very uncomfortable piece-mealing the City of Belmont off. Thomas Fil, Finance Director, clarified that the existing striped parking lot is owned by Lucas and has been in their ownership for a number of years. That parcel was created when the entire Island Park area was developed.

Chair Parsons asked if anyone in the audience wished to speak on this item. No one came forward to speak.

VC Dickenson stated that he feels he needs additional information on the existing parking lot and how it was acquired, and feels that pieces of this property are being “piece mailed” away for parking lots. He wanted to get the information out in a public forum.

C Frautschi asked what the benefit is to the City to vacate a right-of-way. Staff responded that it is their understanding that this property has value but before it can be sold this action has to be taken – the Planning Commission has the authority to confirm General Plan conformance on this action. It is the first step on the way to the sale of a remnant piece of property that the City believes it does not need, and we are in negotiations with an adjacent property owner to acquire.

C Parsons stated there is a piece of property that the City no longer needs to keep as a right-of-way because the road had been realigned and it is adjacent to an area that has commercial value. The City Council is currently in negotiations and has asked the Commission to make a determination that disposal of that public right-of-way conforms to the General Plan. It does not state in the General Plan that we cannot dispose of excess property that is not needed for public health and safety and those kinds of issues.

MOTION: By C Gibson, seconded by C Frautschi, a Resolution of the Planning Commission of the City of Belmont determining that a request to vacate right-of-way adjacent to Assessors Parcel Number 040-36-480 conforms to the Belmont General Plan.

Ayes: Gibson, Frautschi, Long, Horton, Wozniak, Parsons

Noes: Dickenson

Motion passed 6/1

7. OLD BUSINESS

7A. Review of the Water Feature Enhancement for Amphitheater/Plaza at Belameda Library – 1110 Alameda de las Pulgas

Finance Director and Project Manager for the Belmont Library project, Thomas Fil (FD), presented the staff report. He stated that it is a 20,000 square foot library and park improvement and is scheduled to end January 2006 with an ultimate move-in date of Spring 2006. The project is near completion and on-budget and they are able to make some enhancements. He discussed the water feature that will be located in the amphitheater in the rear of the facility. The amphitheater is approximately 60 feet long, 40 feet across and they anticipate that this particular fountain will be in the 12-15 feet range. It will be located outside the community room and will serve a number of purposes. Not only will it provide some beauty to the participants in the library, but also a place for those to sit as they enjoy the amphitheater in the rear. Detailed designs are still in progress at this point. He introduced David Gates as the landscape architect for the project. The fountain is fairly small, will be tucked against the wall with a featured sanctuary of some type. They hope to start the construction of this fountain as soon as possible due to tight construction schedules and are at the point where they are working with electrical and drainage items that are necessary for the fountain to go forward.

Chair Parsons asked if it is a structure or a figure that will spout the water, or will it be surface level jets shooting water all the time. Mr. Fil responded that the statuary will actually be piped and the water will flow over the statuary. It will be next to the technology room.

C Frautschi why the library Steering Committee could not provide funds for the Friends of the Library. Also, he was concerned that it may be difficult for performers at the amphitheater to speak over the noise from the water feature, and also felt that a better location for the fountain might be toward the entrance.

FD Fil stated that the project is fairly well funded, and the work of the Friends of the Belmont Library is to make improvements to furnishing and fixtures – they're looking at the interior of the building. The money for the fountain is money that has been set aside for improvements to the exterior and is to be used for site improvements. The Friends of the Library money will be used to buy additional computers and other interior upgrades.

C Frautschi mentioned that he had requested that there be a sidewalk from the pathway that exits the back of the property into the parking lot so that people would not need to go all the way to the north side of the campus, and was told at that time that they had no money to do that. He don't like to throw money at something that's not necessarily needed if he perceives something else that would have been benefited the project.

C Long agreed that the path in the back made good sense. He asked if patrons will be able to take materials from the library to the amphitheater without checking them out. FD Fil responded that the Librarians will focus on that issue and it may depend on what the security gate at the small end of the amphitheater will look like. He agreed to reconsider the path idea since they are in the fortunate position of being able to release some of the contingency money, but that a problem relative to the path is that it would be close to the roof. He confirmed that the fountain will take up approximately 120-150 sq. ft. of space from the amphitheater. He added that the maintenance costs will come from the City – the tax bill includes \$71 for a library community facilities district, which will be used for the maintenance.

C Horton expressed concern that the fountain area will be a hang-out for the Ralston and Carlmont school kids. She is also concerned about trash that will end up in the fountain, which will result in cost of maintaining it and questioned why the fountain is placed on the stage.

David Gates, Architect, described the fountain area as being a functional seating element, and stated the maintenance as being minor. The fountain will be 6 inches in depth and the flow will be minimal. He also explained that the motor will not be loud.

C Wozniak liked the idea – she liked the water feature as she likes sitting next to water while she reads. She sees it as a place for book reading, and would assume that the water could be turned off if it is too noisy for an event in the amphitheater. She also supported the pathway in back.

C Dickenson felt that the fountain should be closer to the entry.

C Long liked the location as a place where you can sit and relax and enjoy it and thinks it is a great addition to the project.

C Parsons stated that he felt it is a good location and liked the idea of public art in public spaces. C Parsons summarized that while they all do not agree about the proper location for the fountain, they all would like to see a pathway that will aim towards the high school since the a path will probably be made there by the people anyway. He also asked for a tour of the facility for the Commission while it is still under construction. FD Fil agreed to have the Administrative Assistant send them an invitation by email.

C Frautschi added that at the old library, children sat out in front waiting to be picked up, and felt that having the fountain there would be far better use of the money. But he is glad there will be a fountain, wherever they put it.

7B. Review of the Final Landscape Plan and Exterior Elevation Modification Plan for the New Single-Family Dwelling at 2702 Monte Cresta.

ICDD de Melo summarized the staff report, noting that at the May 3, 2005 meeting, the Planning Commission approved a Variance and a Single-Family design for this project. The Commission did levy two additional conditions of approval relative to the modification to the exterior treatment of the dwelling as well the landscape plan. Staff believes that the revised exterior elevations, retaining wall design, landscape plantings and the landscape plan itself meet the concerns, questions, and issues that the Commission raised, and staff concurs with the modifications.

Capri Suchdiva introduced himself and stated that he hired a professional landscaper as C Frautschi had suggested to improve his yard. C Frautschi asked if there could be another keyhole opening on the far right that would soften the retaining wall. Mr. Suchdiva deferred to the landscape architect.

Carrie Arison introduced herself as the landscape architect for this project and stated that there is room for a cut out for another vine in that area.

MOTION: By C Frautschi, seconded by C Horton, adopting the Resolution approving the final landscape plan and exterior elevation plan for 2702 Monte Cresta Drive, with the addition of a 9th cut-out at the right. (Appl. 2003-0037)

Ayes: Frautschi, Horton, Long, Gibson, Wozniak, Parsons

Noes: Dickenson

Motion passed 6/1.

Chair Parsons called for a break at 8:35 p.m. Meeting resumed at 8:40.

5. PUBLIC HEARINGS

5A. PUBLIC HEARING – 1116 Lassen Road

To consider a Single-Family Design Review for the replacement of two existing retaining walls and to construct two new additional retaining walls in the southwesterly rear yard area of the subject property, and to remove a protected Coast Live Oak tree. A City Arborist Report has been prepared for the project which identifies a number of both protected and non-protected trees in the vicinity of the proposed construction area, and includes mitigation and protection measures for these trees.

(Appl. No. PA2005-0050)

APN: 043-152-150; Zoned R-1B (Single Family Residential)

CEQA Status: Recommended Categorical Exemption per Section 15303

Applicant/Owner: Bradley and Annette Kilfoil

AP Walker summarized the staff report, stating that the grading for this property was divided into two phases. Phase I, activity as commenced, a dirt hauling permit was approved by the City Council. A geotechnical investigation was prepared and indicates that all site improvements are feasible. The City Arborist reviewed the project and produced a report. She stated that the coast live oak tree proposed to be removed is in a continual state of decline.

C Frautschi stated the applicant's geology report was from 1999 and asked if Cotton and Shires had reviewed the report and issued a letter. If so, he asked to see it. ICDD de Melo stated that the applicants are in construction of Phase I. Phase II plan does entail a geo report, and he will have Cotton & Shires submit a summary letter on the project.

Brad Kilfoil introduced himself as the owner of 1116 Lassen Drive and the applicant. He stated that there are nine 24-inch box trees that they plan to plant throughout the property and they are still determining the types of native trees to put in place.

MOTION: By C Long, seconded by C Frautschi, to close the Public Hearing. Motion passed.

MOTION: By C Frautschi, seconded by VC Dickenson, to adopt the Resolution approving a Single-Family Design Review for 1116 Lassen Drive, with conditions attached as Exhibit A (Appl. 2005-0050)

Ayes: Frautschi, Dickenson, Gibson, Long, Horton, Wozniak, Parsons

Noes: None

Motion passed 7/0

Chair Parsons noted that this item can be appealed to City Council with 10 calendar days.

5B. PUBLIC HEARING – 49 Ralston Ranch Road

To consider a Floor Area Variance and Single-Family Design Review to construct a new 2,967 square foot single-family residence that exceeds the zoning district permitted 1,140 square feet for this site.

(Appl. No. 2005-0039)

APN: 043-072-740; Zoned: HRO-2 (Hillside Residential & Open Space)

CEQA Status: Recommended Categorical Exemption per Section 15303

Applicant/Owner(s): Karl and Neusi Deneke

ICDD de Melo summarized the staff report, noting that the zoning is HRO-2 which provides specific regulations relative to the slope category as well as the size of lot determining the aggregate square footage that is allowed for the subject site. He stated that in 2001 the City Council adopted a zone text amendment, which is a significant issue with this project, the zone text amendment that remove the floor area exception as the entitlement that one can seek should applicants propose larger homes than the maximum floor area allows. Staff was able to find some of the Findings but cannot get past Variance Findings 14.5.1.A as well as Finding 14.5.1.B. The applicant has demonstrated the construction suitability through a soils report for the appropriate conditions of the site to build a single-family home. Cannot identify difficulty, hardship, or exceptional condition that would allow a home to be larger than the 1,140 square feet prescribed as part of the zoning code.

Karl and Neusi Deneke introduced themselves as the applicants and living at 51 Ralston Ranch Road. He stated they have submitted numerous pictures and paperwork. Neusi Deneke was concerned about the papers that were not included in the staff report and asks if she can distribute them to the Commissioners as it is very important in the decision. They were distributed to the Commission.

Michael McHugh introduced himself as 2600 Belmont Canyon Road resident. He stated that he owns the house next to the Deneke's property, which, he states is the only neighbor, and is concerned that he will be affected by the construction, views, noise, and dirt. However, he felt the project the Deneke's are proposing would be a benefit to the neighborhood.

MOTION: By C Gibson, seconded by VC Dickenson, to close the public hearing.
Motion passed.

C Gibson stated that the zoning ordinance was required to find difficulty or unnecessary physical hardship; he stated there are none, as well as no circumstances or conditions.

Frautschi stated he does not agree with this project.

MOTION: By C Gibson, seconded by VC Dickenson, denying a Floor Area Variance and Single-Family Design Review for 49 Ralston Ranch Road. (Appl. 2005-0039)

Ayes: Gibson, Dickenson, Frautschi, Long, Horton, Wozniak, Parsons

Noes: None

Motion passed 7/0

Chair Parsons noted that this item may be appealed to the City Council within 10 calendar days.

5C. PUBLIC HEARING – 1075 Old County Road

To consider a Floor Area Variance, Conditional Use Permit, and Design Review to add 531 square feet to the existing 24,631 square foot commercial building, resulting in a total of 25,162 square feet for this site. (Appl. No. 2005-0015)

APN: 040-332-270; Zoned: C-4 (Service Commercial)

CEQA Status: Recommended Categorical Exemption per Section 15301

Applicant: Dale Meyer

Owner: Sven Erik Kjaersgaard

ICDD de Melo summarized the staff report, noting that the application involves numerous entitlements: Conditional Use Permit associated with the building addition and for the wireless communication facility testing equipment proposed for this site, a Design Review for the addition, as well as a floor area Variance. The floor area Variance focuses on an existing structure. The project and site have been affected by the change over of the DTSP regulations which were adopted in 1995 then amended with the ATTP in 2000. The applicant seeks the floor area Variance to expand the building about 531 square feet to allow for the construction of an equipment room on the roof of the building for testing of radio communications and testing equipment. Project also includes construction of an elevator area at the front.

Dale Myer introduced himself as the architect for the project. He explained the 3 elements to this project:

- Adding the elevator for ADA access to the second floor.
- Putting a facility in the back of the property to store equipment as well as project the signal.
- The equipment room on the roof which will house the machine that operates the arm for the antenna.

He stated they considered moving the elevator to a different area in the building but the ADA Code requires the elevator and the access to be as close to the entrance as possible. He referred to Sheet 8 P-8, Section B that shows the operation of the testing arm and the shed which is located in back of the property. Stated testing will occur a few times a month or can be longer.

Sven Kjaersgaard introduced himself as the owner of the company. He stated that they have been building antennas since 1987. They are designing antennas for wireless communications

for cellular telephone companies, as well as for the internet. He stated it is an electric motor and is very slow, and makes very little noise.

Chair Parsons opened the public hearing. No one came forward to speak.

MOTION: By C Frautschi, seconded by C Long, to close the public hearing.
Motion passed.

C Horton is concerned about the radio frequency and would like to make sure the conditions as stated would add more protection for the residents.

C Wozniak would like to see a condition requiring the removal of the equipment on the rooftop if the building is abandoned. Responding to her concern about the chain to the parking lot, ICDD de Melo stated that the applicant has proposed to modify that when they do their landscape improvements.

C Long would like to know the definition of “abandonment” in the conditions of approval. He asked that the wording in the condition be set to have the entire structure as well as all equipment be removed from the roof top. He asked for tightening up of the burden of proof if a neighbor has interference with their cell or cordless phone and also felt they should require an independent analysis, in the same way they would require an independent geotechnical or landscape architect report.

C Gibson stated that he is not in favor of an independent analysis because they do not have the authority to regulate this matter.

C Frautschi stated that he likes the landscape plan, wished more could be done with the façade to reflect the DTSP, and concurred that the equipment and equipment room should be removed if the facility ceases to be used as intended in the CUP.

C Horton stated that they do have the right to protect the neighbors from radio frequency and wants to make sure that if there's a problem it gets resolved.

C Long believed this to be completely different from a cell phone tower where you have a set frequency that has been tested inside and out and is very closely regulated by the FCC. He stated that it was an experimental antenna, experimental frequencies venturing into an area where the Commission was not required to allow it. He does not feel it is overly burdensome to have the applicant spend a few thousand dollars to have the City select an independent analysis.

MOTION: By C Long, seconded by C Frautschi, that Planning Commission approve the Conditional Use Permit to allow office and warehousing uses of the existing building and the installation testing of wireless communication antennas, a Variance to allow a 25,162 building where the maximum committed FAR of .5 would allow a 20,049 square foot building for the 41,897 square foot site, and a Design Review to allow 531 square feet in additions to the existing commercial structure at 1075 Old County Road, subject to the conditions attached as Exhibit A with clarification that, if this structure ceases to be used as stated in the report, the structure and all of its contents will be removed. In addition 1) on Page 2 of 7, number 8, Conditions of Approval, the applicant will be required to correct any and all future interference problems experienced by neighbors with respect to reception problems caused by this facility, and 2) the addition of a Condition of Approval that the City shall contract for an independent analysis of the wireless output and impact to the neighboring structures and properties at the applicant's expense.

(No vote was taken on the above motion.)

SUBSTITUTE MOTION: By C Gibson, seconded by VC Dickenson, identical to the motion stated above without the requirement for an independent analysis.

VOTE ON SUBSTITUTE MOTION:

Ayes: Gibson, Horton, Dickenson, Parsons

Noes: Long, Frautschi, Wozniak

Motion passed 4/3

Chair Parsons noted that his item may be appealed to City Council within 10 days.

8. REPORTS, STUDIES, UPDATES, AND COMMENTS:

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Chair Parsons stated he received a letter from PG&E regarding placing antennas on their towers and gave it to ICDD de Melo for response.

8A Status Update – Wendy’s Restaurant – 696 Ralston Avenue

ICDD de Melo reported that this issue was raised by VC Dickenson about the status of Wendy’s 24-hour operation. He has a letter from the Interim City Manager that documents when the facility was established and operating prior to the Urgency Ordinance in 1986 that mandated no uses can take place before 7:00 am or after 11:00 pm. VC Dickenson stated Jack Crist had a communication with the ownership of the property and they produced documents that confirmed they did not cease operation and for a period of time to lose the condition to operate past 11:00 pm. He also stated that, according to the file, this CUP was supposed to be reviewed on an annual basis, and he did not believe this has happened. In addition there was a landscape plan and it appears that they have neglected the landscape. He felt it is up to the Commission to determine if they are out of compliance. Chair Parsons asked staff to review the CUP and landscape plan with the owner and inform them of the Commission’s concerns.

C Long suggested that staff spend some time going through CUP’s to determine which ones require an annual review. C Horton added that there are people who would volunteer to do that. VC Dickenson felt that this would open a Pandora’s box and suggested that they deal with them as they arise. C Long then asked for a study session dealing with the application of existing CUP’s so that they could determine what they could do make the process work smoothly. CA Zafferano interjected that Council is currently in the process of looking at an alternative procedure for code enforcement utilizing a system of assessments if the property is not brought into compliance. He suggested that the Planning Commission may want to see how that effort comes out and how CUP compliance is treated in the program and then have a study session at that point.

Avante, the dim sum restaurant on Ralston, and Indulge were mentioned as needing code enforcement attention. CA Zafferano added that his office just received a request from Code Enforcement to start action against Indulge.

VC Dickenson mentioned that San Mateo is in the process of finalizing the Bay Meadows issue. CA Zafferano stated that there has been a proposed agreement subject to the actual development of the project whereby the City of San Mateo would pay certain mitigation fees for traffic to the City of Belmont. The project is not within the City of Belmont and the City does not have any say about it except as it relates to the Environmental Impact Report to which is has already commented. The result of that was this tentative agreement which is subject o final approval of the project.

ICDD reported that the Permit Efficiency Task Force is having its final review of the document to be presented to Council the following evening at 6:00 p.m.

C Long reported that he will be absent at the next meeting.

ICDD de Melo reported that the appeal of the Condition of Approval for the 2303 Casa Bona is to be heard by the Council on October 11, 2005.

9. PLANNING COMMISSION LIAISON TO CITY COUNCIL MEETING OF TUESDAY, OCTOBER 11, 2005

Liaison: Commissioner Horton

Alternate Liaison: Vice Chair Dickenson

C Horton reported that she will be out of town on October 11 and VC Dickenson will attend the meeting.

10: ADJOURNMENT:

The meeting adjourned at 10:30 p.m. to a regular meeting on Tuesday, October 18, 2005 at 7:00 p.m. at One Twin Pines Lane, 2nd Floor Council Chambers.

Carlos de Melo

Interim Planning Commission Secretary

CD's of Planning Commission Meetings are available in the

Community Development Department.

Please call (650) 595-7416 to schedule an appointment.